

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

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UNITED STATES OF AMERICA :

- v. - :

INDICTMENT

EPHRAIM FRENKEL, :

S1 10 Cr. 1207 (WWE)

Defendant. :

- - - - - x

COUNT ONE

Background

The Grand Jury charges:

1. At all times relevant to this Indictment, First Republic Group was a real estate company and the parent company for First Republic Group Realty LLC and FRGR Managing Member LLC. First Republic Group Realty LLC ("First Republic Group Realty") was a Delaware limited liability company. FRGR Managing Member LLC, also a Delaware limited liability company, was the sole holder of First Republic Group Realty's interests and its managing member. The same individual (the "Principal") was the principal for each of these companies. The Principal created First Republic Group Realty and FRGR Managing Member LLC for the sole purpose of purchasing eleven shopping malls in the southeastern part of the United States in 2007.

2. On or about April 20, 2007, First Republic Group Realty, through the Principal, as buyer, entered into a written

contract to purchase from Colonial Realty Limited Partnership ("Colonial"), as seller, a portfolio of eleven shopping center properties located in Alabama, Georgia, North Carolina, and Virginia.

3. To finance this purchase, First Republic Group Realty through the Principal entered into a \$111,150,000 mortgage loan agreement, dated July 11, 2007, with Citigroup Global Markets Realty Corp ("Citigroup"). On or about June 19, 2007, while First Republic Group Realty and Citigroup were engaged in negotiations concerning the terms of the mortgage loan, FRGR Managing Member LLC was formed as a special purpose entity for the sole purpose of owning all of the membership interests of First Republic Group Realty and to facilitate a mezzanine loan agreement for \$15 million. FRGR Managing Member LLC separately borrowed \$15 million from Citigroup through a mezzanine loan agreement dated July 11, 2007.

4. Prior to the closing on the two Citigroup loans, EPHRAIM FRENKEL, the defendant, an attorney who ran a title and escrow company known as Land Title Associates ("LTA"), was engaged to serve as an escrow agent for that transaction. FRENKEL's and LTA's limited role was to serve as the escrow agent for a portion of the closing costs, including those incurred by First Republic Group Realty.

5. Prior to the closing, EPHRAIM FRENKEL, the defendant, and the Principal provided to Citigroup documentation listing First Republic Group Realty's various closing costs. Among the closing costs identified by FRENKEL and the Principal were \$8,677,500 to be paid to Prudential Douglas Elliman for brokerage services; \$2,325,000 to be paid to GMAC IPG for brokerage/consulting services; \$934,500 to be paid to ACE Capital Group for investment advice, transaction structuring and advice and capital formation advice; \$2,670,000 to be paid to Roman Associates, Ltd. for acquisition advising fees; and \$934,500 to be paid to an attorney for financing feasibility studies, travel to each property, and disbursements. None of these closing costs were actually incurred during the transaction.

6. The total closing costs were a component in calculating the size of the loan Citigroup was willing to make to the Principal and First Republic Realty Group. Had EPHRAIM FRENKEL, the defendant, and the Principal not inflated the closing costs, Citigroup would not have provided loans in the amount that the Principal needed to purchase the malls.

7. On or about July 12 and 13, 2007, the closing on the two Citigroup loans took place. Over the course of the two days, EPHRAIM FRENKEL, the defendant, falsely represented to Citigroup that he paid by wire transfer the purported closing

costs incurred by First Republic Group and owed to Prudential Douglas Elliman, GMAC IPG, ACE Capital Group, and Roman Associates, as well as other additional closing costs, when in fact he had not made such payments.

**Statutory Allegations**

8. From in or about June 2007 through in or about July 2007, in the Southern District of New York and elsewhere, EPHRAIM FRENKEL, the defendant, the Principal, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Section 1343 of Title 18, United States Code.

9. It was a part and object of the conspiracy that EPHRAIM FRENKEL, the defendant, the Principal, and others known and unknown willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Section 1343 of Title 18, United States Code.

(Title 18, United States Code, Section 1349.)

COUNT TWO

The Grand Jury further charges:

10. From in or about June 2007 through in or about July 2007, in the Southern District of New York and elsewhere, EPHRAIM FRENKEL, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, FRENKEL made various wire transfers from a bank account in Fairlawn, New Jersey to bank accounts in the New York metropolitan area, including in New York, New York, and sent and received emails in interstate commerce, including emails to individuals located in New York, New York, in furtherance of a scheme to defraud Citigroup by inducing it to loan approximately \$126 million, using false statements of, among other things, closing costs.

(Title 18, United States Code, Sections 1343 and 2.)

Forfeiture Allegations

11. As a result of committing and conspiring to commits offenses in violation of Title 18, United States Code, Sections 1343 and 1349, as charged in Counts One and Two of this

Indictment, EPHRAIM FRENKEL, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, any property, real or personal, that constitutes or is derived from proceeds traceable to said offenses, including but not limited to a sum of United States currency representing the amount of proceeds obtained by the defendant as a result of the charged offenses.

Substitute Asset Provision

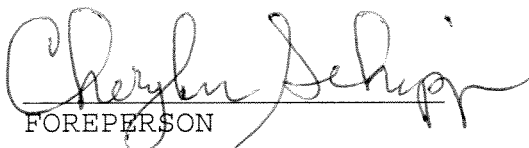
12. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

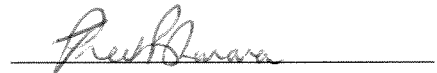
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or;
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any

other property of the defendant up to the value of the above  
forfeitable property.

(Title 18, United States Code, Section 981(a)(1)(C);  
Title 21, United States Code, Section 853(p); and  
Title 28, United States Code, Section 2461.)

  
FOREPERSON

  
PREET BHARARA  
UNITED STATES ATTORNEY

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*United States District Court*

SOUTHERN DISTRICT OF NEW YORK

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**THE UNITED STATES OF AMERICA**

vs.

**EPHRAIM FRENKEL,**

**Defendant.**

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**INDICTMENT**

**S1 13 Cr. 513 (CS)**

**(In Violation of Title 18, United States Code, Section 1349)**


**(In Violation of Title 18, United States Code, Section 1343 )**

**PREET BHARARA**

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United States Attorney.

**A TRUE BILL**

  
Foreperson.

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1/14/14 Superseding Interment filed.  
Dawson, J.